

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Herman VAN MELLAERT et al.)	Group Art Unit:
Application No.: Div of 09/661,016)	Examiner:
Filed: Even date herewith)	Confirmation No.:
For: Recombinant Plant Expressing Non-competitively Binding Bt Insecticidal Crystal Proteins)	

FIRST INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure as set forth in 37 C.F.R. § 1.56, the accompanying information is being submitted in accordance with 37 C.F.R. §§ 1.97 and 1.98.

All of the listed documents were previously made of record in prior Application Serial No. 09/661,016, filed September 13, 2000, upon which Applicants rely for the benefits provided in 35 U.S.C. § 120. In accordance with 37 C.F.R. § 1.98, a copy of each of the listed documents, except those documents which were previously made of record in the prior application, is enclosed.

The documents are being submitted within three (3) months of the filing or entry of the national stage of this application or before the first Office Action on the merits, whichever is later. Since these documents are being filed within the time period set forth in 37 C.F.R. § 1.97(b), no fee or statement is required.

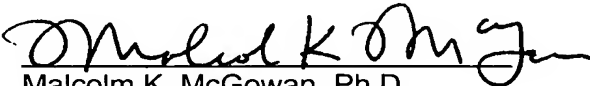
☐ In accordance with MPEP § 609 III C(2) (August 2001, page 600-131), the Office is requested to return a copy of this Information Disclosure Statement with the Examiner's initials adjacent to this paragraph indicating that this copending application has been considered. By citation to the copending application, confidentiality is not waived and the Office is requested to maintain the confidentiality of the copending application under 35 U.S.C. § 122.

To assist the Examiner, the documents are listed on the attached form PTO-1449. It is respectfully requested that an Examiner initialed copy of this form be returned to the undersigned.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date March 26, 2004

By: 
Malcolm K. McGowan, Ph.D.
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INFORMATION DISCLOSURE CITATION PTO-1449				ATTORNEY'S DKT NO. 021565-155		APPLICATION NO. TBA (Div of 09/661,016))	
				APPLICANT VAN MELLAERT et al.			
				FILING DATE Even date herewith		GROUP	
U.S. PATENT DOCUMENTS							
EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE	
	5,500,365	3/1996	Fischhoff et al.				
FOREIGN PATENT DOCUMENTS							
EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation Yes No	
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)							
	A. Devonshire et al., "A Carboxylesterase with Broad Substrate Specificity Causes Organophosphorus, Carbamate and Pyrethroid Resistance in Peach - Potato Aphids (<i>Myzus persicae</i>) <i>Pesticide Biochemistry and Physiology</i> (1982) 18:235-246						
	C. Hofmann et al., "Specificity of <i>Bacillus thuringiensis</i> -endotoxins is Correlated With the Presence of High-Affinity Binding Sites in the Brush Border Membrane of Target Insect Midguts", <i>Proc. Natl. Acad. Sci. USA</i> (1988) 85:7844-7848						
	Van Mellaert et al "Binding of Different Types of <i>Bacillus Thuringiensis</i> Delta-Endotoxins to Midgut Brush Border Membrane Vesicles is Correlated with the Insecticidal Spectrum", XXI Annual Meeting of the Society for Invertebrate Pathology at the University of California, San Diego at La Jolla on August 14-18, 1988.						
	H. Van Mellaert et al., "The Mode of Action of <i>Bacillus Thuringiensis</i> Delta-Endotoxins: Binding to Lepidopteran Midcut Membranes" <i>Insect Pathology and Biological Control</i> , VIIC2, pp. 257						
	M. Vaeck et al., "Transgenic Plants Protected From Insect Attack", <i>Nature</i> 328:33-37 (1987)						
EXAMINER				DATE CONSIDERED			

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

INFORMATION DISCLOSURE CITATION PTO-1449				ATTORNEY'S DKT No. 021565-155		APPLICATION No. TBA (Div of 09/661,016)	
				APPLICANT Herman Van Mellaert et al.			
				FILING DATE Even date herewith		GROUP	
U.S. PATENT DOCUMENTS							
EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE	
FOREIGN PATENT DOCUMENTS							
EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						Yes	No
	305,275	03/01/89	European Patent Office				
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)							
	C. Payne, "Current Uses and Future Prospects for Microbial Pest Control Agents", <u>Med. Fac. Landbouww. Rijksuniv.</u> , Gent, 52(2a), 1987, pp. 113-123						
	G. Mani, "Evolution of Resistance in the Presence of Two Insecticides", <u>The Genetics Society of America</u> , Nov. 1985, pp.761-783.						
	J. Wong et al, "Cloning and Nucleotide Sequence of the Gene Coding for a 135-KDAL Protein of <i>Bacillus Thuringiensis Aizawai</i> ", pp. 27. 1988						
EXAMINER				DATE CONSIDERED			

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				FILING DATE Even date herewith		GROUP	
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EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE	
FOREIGN PATENT DOCUMENTS							
EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	Translation Yes No	
	EP0228838		Europe				
	WO88/08880		PCT				
	EP0192319		Europe				
	EP0221024		Europe				
	EP0193259		Europe				
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)							
	"Simultaneous Expression of Two Kinds of Insecticidal Proteins," <i>Patent Abstracts of Japan</i> , Vol. 13, No. 326, (1989) C-620						
	"A Translation Fusion Product of Two Different Insecticidal Crystal Protein Genes of <i>Bacillus thuringiensis</i> Exhibits an Enlarged Insecticidal Spectrum" <i>Chemical Abstracts</i> , Vol. 112, No. 21 (1990), p. 262, 193742F						
	"Binding of the Delta Endotoxin From <i>Bacillus thuringiensis</i> to Brush Border Membrane Vesicles of the Cabbage Butterfly (<i>Pieris brassicae</i>)", <i>Eur. J. Biochem</i> , Vol. 173 (1988), pp. 85-91						
	"Specificity of <i>Bacillus thuringiensis</i> Delta-Endotoxins is Corrected With The Presence of High-Affinity Binding Sites in the Brush Border Membrane of Target Insect Midgut", <i>Proc. Natl. Acad. Sci.</i> , Vol. 85 (1988), pp. 7844-7848						
	"Chimera Insecticidal Protein of <i>Bacillus thuringiensis</i> ", <i>Patent Abstracts of Japan</i> , Vol. 12, No. 391 (1988) (C-537)						
EXAMINER				DATE CONSIDERED			

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Substitute for form 1449A/PTO & 1449B/PTO			Complete if Known		
FIRST INFORMATION DISCLOSURE STATEMENT BY APPLICANT <small>(use as many sheets as necessary)</small>			Application Number	Div of 09/661,016	
			Filing Date	Even date herewith	
			First Named Inventor	Herman VAN MELLAERT et al.	
			Examiner Name		
Sheet	4	of	4	Attorney Docket Number	021565-155

U.S. PATENT DOCUMENTS				
Examiner Initials	Document Number	Kind Code (if known)	Name of Patentee or Applicant of Cited Document	Issue/Publication Date (MM-DD-YYYY)
	5,866,784		Van Mellaert et al.	02/02/1999
	5,908,970		Van Mellaert et al.	06/0/1999
	6,172,291		Van Mellaert et al.	01/2001

FOREIGN PATENT DOCUMENTS						
Examiner Initials	Document Number	Kind Code (if known)	Country	Date of Publication (MM-DD-YYYY)	Translation	
					Yes	No

NON-PATENT LITERATURE DOCUMENTS	
Examiner Initials	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
	Christina Hofmann, "The Binding of <i>Bacillus thuringiensis</i> Delta-endotoxin to Cultured Insect Cells and to Brush Border Membrane Vesicles", a dissertation submitted to the Swiss Federal Institute of Technology in Zurich, Switzerland, for the degree of Doctor of Natural Sciences, ADAG Administration & Druck AG, Zurich 1988, Diss. ETH No. 8498

Examiner Signature	Date Considered
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